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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,403	11/10/2003	Satoshi Mizutani	20050/0200484-US0	4411

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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/705,403	Applicant(s) MIZUTANI ET AL.	
	Examiner Karin M. Reichle	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-17 is/are pending in the application.
- 4a) Of the above claim(s) 4,7,15 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6,8-14 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1a. Due to a typographical error discovered during review of the application with respect to a related application, the FINAL of 6-8-2006 is withdrawn and a new action on the merits of the application as amended 3-14-06 follows:

Election/Restrictions

1b. Claims 4, 7 and 15-16 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7-7-05.

Claims 4 and 7 remain withdrawn either because the Figures of the elected species do not show the claimed structure, e.g. Figures 1-16, 9A, 10A and 22B do not show the structure of claim 1 and further a plurality of sheet bodies as now claimed in claim 4, e.g. “each of which is bonded together at each side edge”, or it is unclear whether such reads on the elected species or not, e.g. in claim 7, what “the convex” and “both faces” thereof?, and thereby “openings of the convex area formed having” such? No “a convex” with two “faces” has been claimed.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For Example:

Drawings

3. The drawings were received on 3-14-06. These drawings are approved by the Examiner. However see the following paragraph.

4. The drawings are objected to because the numeral 62 still should not be underlined in Figure 10(C). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Description

5. The substitute specification filed 3-14-06 has been entered. However see the following paragraphs.

6. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: the abstract, the first sentence, page 22, lines 13-16.

7. The disclosure is objected to because of the following informalities: The specification is still replete with informalities. For example: 1) The Summary of the Invention section, i.e. a description of the claimed invention, and the invention of the claims are still not commensurate in scope, see MPEP 608.01(d). It is noted the extraneous descriptive matter in the Summary should be included in the Detailed Description instead, if not already. 2) On page 4, line 13, the numeral in parenthesis should be deleted. This also applies to page 13, lines 14, 23 and 31. 3) On page 14, fourth from the bottom line, "3" still should be --3(A)-(B)--. 4) On page 18, last full sentence, what sleeve and openings thereof of the long convex area? On page 19, line 5, what are the sleeve portions 14a? The edges of minisheet 14 or something else? Note MPEP 608.01(o), i.e. multiple terms for the same structure should be avoided. 5) Claim 1, last two lines and claim 17, lines 13-15 now set forth bodies bonded at each longitudinal side edge and an inside of the convex area is not bonded. However, since such does not set forth what the bodies are bonded to nor the structure having the side edge and since the inside of the convex area is at least bonded indirectly with other structure and it is not set forth what such area is not bonded to,

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at the very least, such appears to be inconsistent with the description of the remainder of the application. The remainder of the application describes bodies bonded directly to each other only at their side edges such that an inside of a convex area defined by the backing sheet facing the opposite side of the main sheet body is not directly bonded to the surface sheet of the sub-sheet body. A complete, consistent description of the invention should be set forth throughout the application. The specification should be carefully reviewed and revised, as necessary, to overcome all the informalities. Applicant is thanked in advance for the continuing cooperation in placing the specification in proper form.

Appropriate correction is required.

Claim Objections

8. Claims 1, 3, 5-6 and 8-14 and 17 are objected to because of the following informalities: In claim 1, line 9, "positioned at" should be --facing--. On line 16, "the", last, should be --a--. In claim 3, lines 6-7, "comprises a sleeve opening that" should be deleted. On line 7, "inserted" should be --insertable--. In claims 3, 5-6, and 8-13, line 1, "An" should be --The--. In claim 9, line 2, "in the lateral direction" is redundant. The preamble of claim 14, a claim dependent from claim 1, is inconsistent with that of claim 1. With regard to claim 17, the remarks with respect to claims 1, 3 and 5 apply to similar language in this claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 1, 3, 5-6, 8-14 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. With regard to claim 1, last two lines and claim 17, lines 13-15, due to the inconsistency and lack of clarity discussed supra in paragraph 7 and infra in paragraph 11, it is not clear what structure is being claimed and thereby, whether the application as originally filed provides support therefor. Contrary to Applicant's remarks, the last two lines of claim 1 and lines 13-15 of claim 17 are not the same as now cancelled claim 2. Claim 3 and claim 17, last two lines now set forth the convex area now has at least one opening along the lateral direction, i.e. includes any number of openings greater than one and openings in the convex area other than at the terminal ends thereof. While the originally filed application teaches two openings at terminal ends of the convex area respectively this is not what is claimed. Contrary to Applicant's remarks Figure 1 does not provide support for the full scope of claim 3 as now amended nor newly added claim 17. If Applicant maintains such claim language the portions of the originally filed application which provide support for the full scope of the claimed structure in a single embodiment should be set forth. Note MPEP 2163.06(I)

11. Claims 1, 3, 5-6, 8-14 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The last two lines of claim 1 are at the very least, see discussion supra, unclear because it is unclear what is bonded, see Claim Language Interpretation section infra, together and where, i.e. are the bodies bonded together? If so, where? At the side edges of the bodies? The side edges of the pad? If the bodies are bonded together, how can the convex area not be bonded since it is at least indirectly bonded to something? This also applies to similar language in claim 17. In regard to claim 5, a positive structural antecedent basis for “the back side sheet”, line 3, should be defined. This also applies to similar language in claim 17. In claim 6, a positive structural antecedent basis for “the long convex area” should be set forth.

Claim Language Interpretation

12. The claim terminology is interpreted in light of the specific definitions on page 5, lines 10-11 and the sentence bridging pages 6-7. Any other claim language not specifically defined has been interpreted in view of the usual and common meaning of such, i.e. the dictionary definition. It is noted that the terminology “bonded” includes indirect bonding or direct bonding. A product by process is recited by lines 14-15 of claim 1, similar language in claim 17 and line 2 of claim 6, i.e. see MPEP 2113, i.e. patentability is determined based on the end product of a product by process claim, not the process. It is noted that claims 1 and 17 do not require the end product have main and sub sheet bodies which are substantially the same width. The end product of claim 6 is interpreted to include a portion of the main sheet body being bent. It is noted that the terminology “mini” in claims 5 and 17 has not been claimed with respect to any other structure, i.e. mini compared to what, and thereby is considered relative absent specific dimensions thereof. Due to the lack of clarity with regard to the last two lines of claim 1 and

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similar language in claim 17, the language will be interpreted to require at a minimum a main sheet body and a sub-sheet body bonded, directly or indirectly, to each other at their longitudinal side edges and some portion of the inside of the convex area not being bonded directly to some other structure. With regard to the last two lines of claim 1, claim 3 and claim 17, lines 13-15 and the last two lines, note again MPEP 2163.06(I).

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

14. Claims 1, 3, 5-6 and 8-13 and 17 are rejected under 35 U.S.C. 102(a) as being anticipated by Lichstein PCT '197.

Claims 1 and 6: See Claim Language Interpretation section supra and '197 at Figures, especially 17a-17f, 1, 3, 5-8, 11-13, page 1, lines 7-9, page 2, lines 15-17, and 21-23, page 4, lines 31-33, page 6, line 21-page 7, line 21, page 9, line 33-page 10, line 28, especially note that web 200 can be multiple layers/sheets, 201 is also a sheet, and page 13, line 32-page 17, line 21, especially note again the absorbent layer can be multiple sheets/layers and the cover material may include multiple sheets/layers and multiple transfer layers/sheets at various locations may be employed, i.e. the interlabial pad is 20, the main sheet body and sub-sheet body are 200 and 201, i.e. 201 includes at least one layer which forms the surface sheet of the main sheet body, the remainder of the sheets of the main body and sub-sheet body are layers of 201, 220 or transfer

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layers on the side of the at least one layer forming the surface sheet which faces an opposite side of the body side or garment side, the bodies are of the same width during production of the device as well as in the end product, see Figures 17a-17-f, the main sheet body is bent or folded such that an elongated convex area is formed in the longitudinal direction of the surface sheet so that a center area thereof in the lateral direction is formed convex towards the body side, and, as best understood, the main sheet body and sub sheet body are directly or indirectly bonded to each other at their longitudinal side edges and some portion of the inside of the convex area is not bonded directly to some other structure, e.g. other portions of the inside of the convex area or sheet 300, see Figures.

Claims 8 and 10: See, e.g., the shapes in Figures 7, 11-13, 17f and page 6, line 30-page 7, line 2 and page 7, lines 20-21.

Claim 9: See page 6, line 21-page 7, line 21, i.e. the widths and heights disclosed would yield cross-sectional areas of at least 1 square centimeter (10 square millimeters).

Claims 3 and 5: As seen in Figures 17a-17f, the convex area has an opening at either end and a sheet 300 is fixed to the backing sheet of the sub-sheet body and an opening formed therebetween. See also the portions cited supra, i.e. sheet 300 can be only one layer, and the sheet 300/distal part 404 can have a smaller length than the proximal part 403/200,201, i.e. the sheet 300 is “mini” as claimed in claim 5 with respect to other structure, e.g. 200 or 201. These claims also recite functions, properties or capabilities of the structure set forth therein, i.e. the openings are capable of having a finger inserted therein. See the discussion claim 9 supra and the portions of ‘197 cited supra, as well as page 11, first and second full paragraphs and page 12, lines 2-3 of the 3-14-06 specification, i.e. the ‘197 reference at the very least teaches the same

dimensions of the openings/convex area as claimed/disclosed by the instant application.

Therefore there is sufficient factual evidence for one to conclude that such openings of '197 also inherently includes such claimed functions, properties and capabilities, i.e. capable of having a finger inserted therein, see MPEP 2112.01.

Claims 11-13: These claims recite functions, properties or capabilities of the structure set forth in claim 1. If not already taught by the '197, see the portions cited supra, e.g. last sentence of page 4, the '197 reference at the very least teaches such structure of claim 1. Therefore there is sufficient factual evidence for one to conclude that such same structure of '197 also inherently includes such claimed functions, properties and capabilities, see MPEP 2112.01. It is noted that claim 11 does not further require any further structure, i.e. a napkin.

Claim 17: See the discussion of claims 1, 3, and 5, supra.

Claim Rejections - 35 USC § 103

15. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

16. Claim 14 is rejected under 35 U.S.C. 103(a) as obvious over Lichstein '197 in view of Gann '270.

Applicant further claims the interlabial pad contained in a wrapping container for individual wrapping which '197 does not teach. However, '197 does teach the desire to provide a safe sanitary protection device. However, it is well known to provide a wrapping container or package for individual wrapping of an interlabial sanitary protection device such as, for example, taught by Gann '270 at pages 23-25, the claims and Figure 9 in order to maintain the device in a

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sanitary condition until such is used. Therefore to employ a wrapping container or package in combination with the interlabial sanitary protection device of '197 would be obvious to one of ordinary skill in the art in view of the recognition that such combination is well known such as, for example, taught by Gann '270, to maintain the sanitary condition of the device and the desire of '197 to provide a safe sanitary protection device.

Response to Arguments

17. Applicant's remarks have been carefully considered but are either deemed moot in that the issues discussed have not been reraised or deemed not persuasive for the reasons set forth supra.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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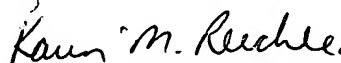
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any new grounds of rejection were necessitated by the amendments to claims 1, 3, 5-6, 8-14 and the addition of new claim 17.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
June 12, 2006